

REMARKS

Claims 1-8, 10 and 12-14 are pending, of which claims 1, 10, 18, 21, 22, 23 and 24 are independent. Claims 1, 10, 18, 21, 22, 23 and 24 are amended. No new matter has been introduced. Applicants respectfully submit that the foregoing claims define over the cited references. Accordingly, Applicants respectfully request the Examiner to pass the application to allowance.

I. Interview with the Examiner

The Examiner attempted to contact the Applicants' representative on August 11-12, 2010 while the Applicants' representative was out of office. The Applicants' representative contacted the Examiner on August 30, 2010 to discuss the Examiner's concerns with respect to the present application. The Examiner indicated that the Office Action was already mailed out but the Examiner suggested amending the pending claims to further clarify that the protection program was built on the ASPI layer. The Examiner indicated that a new reference, i.e. the Bersson reference, was cited for this feature but that it was possible to provide arguments with respect to the claimed invention.

Applicants amend claims to recite that the protection software is built on the ASPI layer, as recited in the Specification at page 6, lines 26-27.

II. Rejection of Claims under 35 U.S.C. §103

1. Claims 1-8, 10 and 12-23

Claims 1-8, 10 and 12-23 have been rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Pre-Grant Patent Publication No. 2004/0133523 to Inokuchi et al. (hereinafter "Inokuchi") in view of U.S. Pre-Grant Patent Publication No. 2005/0223240 to Miles (hereinafter "Miles") (Office Action, page 2, § 4). Applicants respectfully traverse the rejection with following remarks.

A. Claim 1

Applicants respectfully submit that Inokuchi, alone or in any reasonable combination with Miles, does not disclose or suggest at least the following feature of claim 1: *providing a*

protection program built on the ASPI layer, the protection program residing on the optical medium with the software program.

In the Office Action, the Examiner indicates that Miles, which is cited to supplement the teachings of Inokuchi, does not explicitly disclose that the driver level is particularly the ASPI layer. *See* Office Action, page 11.

Applicants respectfully submit that Inokuchi is also silent about this feature. Nowhere does Inokuchi disclose or suggest ***providing a protection program built on the ASPI layer, the protection program residing on the optical medium with the software program***, as provided in Applicants' amended claim 1. Inokuchi, alone or in any reasonable combination with Miles, fails to disclose or suggest this claim element.

In light of the foregoing remarks, Applicants respectfully submit that the cited references do not disclose or suggest each and every feature of Applicants' claim 1. Accordingly, Applicants respectfully request that the 35 U.S.C. §103(a) of claim 1 be withdrawn.

B. Claims 2-8

Claims 2-8 depend from and incorporate all the features of claim 1. As such, claims 2-8 are allowable for at least the same reasons as set forth above for claim 1. Accordingly, Applicants respectfully request the Examiner to reconsider and withdraw the rejection of claims 2-8 under 35 U.S.C. § 103(a).

C. Claims 10 and 12-20

Applicants respectfully submit that Inokuchi, alone or in any reasonable combination with Miles, does not disclose or suggest at least the following feature of claims 10 and 18: ***identifying a protection program built on the ASPI layer, the protection program residing on the optical medium.***

In light of the foregoing remarks provided with respect to claim 1, Applicants respectfully submit that Inokuchi, alone or in any reasonable combination with Miles, does not disclose or suggest each and every feature of Applicants' claims 10 and 18. Accordingly, Applicants respectfully request that the 35 U.S.C. §103(a) of claims 10 and 18 be withdrawn.

Claims 12-17 depend from and incorporate all the features of claim 10. Claims 19-20 depend from and incorporate all the features of claim 18. As such, claims 12-17 and 19-20 are allowable for at least the same reasons as set forth above for claims 10 and 18, respectively. Accordingly, Applicants respectfully request the Examiner to reconsider and withdraw the rejection of claims 12-17 and 19-20 under 35 U.S.C. § 103(a).

D. Claims 21-23

Independent claim 21 recites *a protection program built on the ASPI layer that prevents the unauthorized copy of the software program from being used.*

Independent claim 22 recites *a protection program built on the ASPI layer that prevents use of an unauthorized copy of the software program.*

Independent claim 23 recites *a protection program built on the ASPI layer that prevents the unauthorized copy of the software program from being executed.*

In light of the remarks provided with respect to claim 1, Applicants respectfully submit that Inokuchi, alone or in any reasonable combination with Miles, does not disclose or suggest each and every feature of claims 21-23. Accordingly, Applicants respectfully request the Examiner to reconsider and withdraw the rejection of claims 21-23 under 35 U.S.C. § 103(a).

2. Claim 24

Claim 24 has been rejected under 35 U.S.C. §103(a) as being unpatentable over Inokuchi in view of Miles and further in view of U.S. Patent No. 6,081,897 to Bersson (hereinafter “Bersson”) (Office Action, page 9, § 5). Applicants respectfully traverse the rejection with following remarks.

Applicants respectfully submit that Inokuchi and Miles, alone or in any reasonable combination with Bersson, do not disclose or suggest at least the following feature of claim 24: *a protection program built on the ASPI layer.*

As provided above, Inokuchi and Miles are silent about a protection program built on the ASPI layer. The Examiner asserts that Bersson teaches this claim feature. Applicants respectfully disagree.

Bersson teaches a method for preventing unauthorized copying of works stored on a compact disc. *See* Col. 1, lines 48-49. The Hook routines of Bersson that are identified by the Examiner as being equivalent to a protection program built on the ASPI layer are ASPI callback routines that prevent copying the copyrighted data from the CD. *See* Col. 4, lines 3-12. These callback routines help to implement control over recoding: if the data is copyrighted, the routines prevent copying the data from the CD. The callback routines operate to intercept read commands from the SCSI bus. *See* Col. 4, lines 12-15.

However, the routines of Bersson are not a protection program built on the ASPI layer that inhibits execution of the software on an optical medium. The routines of Bersson merely prevent copying the software. However, the software can still be executed even if the software is an unauthorized copy. Accordingly, Bersson, alone or in any reasonable combination with Inokuchi and Miles, fails to disclose or suggest *a protection program built on the ASPI layer*, as recited in Applicants' claim 24.

In light of the foregoing remarks, Applicants respectfully submit that the cited references do not disclose or suggest each and every feature of Applicants' claim 24. Accordingly, Applicants respectfully request that the 35 U.S.C. §103(a) of claim 24 be withdrawn.

CONCLUSION

In light of the above amendments and arguments, Applicants respectfully submit that all of the pending claims are in condition for allowance. Should the Examiner feel that a teleconference would expedite the prosecution of this application, the Examiner is urged to contact the Applicants' attorney at (617) 227-7400.

Please charge any shortage or credit any overpayment of fees to our Deposit Account No. 12-0080, under Order No. MWS-107RCE4. In the event that a petition for an extension of time is required to be submitted herewith, and the requisite petition does not accompany this response, the undersigned hereby petitions under 37 C.F.R. §1.136(a) for an extension of time for as many months as are required to render this submission timely. Any fee due is authorized to be charged to the aforementioned Deposit Account.

Dated: November 24, 2010

Respectfully submitted,

By____/Neslihan I. Doran/_____
Neslihan I. Doran
Registration No.: 64,883
Nelson Mullins Riley & Scarborough LLP
One Post Office Square
Boston, Massachusetts 02109-2127
(800) 237-2000
(617) 742-4214 (Fax)
Attorney/Agent For Applicant